

AMENDED IN SENATE JANUARY 4, 2006

AMENDED IN SENATE APRIL 12, 2005

**SENATE BILL**

**No. 466**

**Introduced by Senator Kuehl**

February 18, 2005

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An act to amend, repeal, and add Section 40518 to, and to add and repeal Section 22368 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 466, as amended, Kuehl. Mobile photo radar enforcement system.

**Existing**

(1) *Existing* law authorizes the equipping, by governmental agencies, in cooperation with law enforcement agencies, of automated enforcement systems, as defined, provides a special procedure in connection with certain alleged violations recorded by an automated enforcement system, and limits the availability of photographic records to the purposes of the law.

This bill would authorize; *the City of Beverly Hills with the oversight of the local law enforcement agency, to establish, by ordinance, a pilot project utilizing a mobile photo radar speed enforcement system, as defined, to be used by a county or city in cooperation with a local law enforcement agency if its operation includes specific activities and the system is used only for purposes of enforcing certain speed laws in a residence district or a school zone, as those terms are defined by other provisions of law. The bill would require the City of Beverly Hills, if it establishes the pilot project, to submit to the Legislature, on or before July 1, 2009, a report prepared by an independent qualified contractor on the efficacy of the mobile*

*photo radar speed enforcement system in reducing speeding and improving traffic safety in residential districts and school zones.*

This bill would provide that its provisions would only remain in effect until January 1, 2010, and as of that date would be repealed.

*(2) Existing law provides special written, mailed notice to appear procedures in connection with certain alleged violations recorded by an automated enforcement system.*

*This bill would expressly apply the above until January 1, 2011, to certain alleged violations recorded by a mobile photo radar speed enforcement system utilized by the pilot project described in (1).*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 22368 is added to the Vehicle Code, to  
2 read:

3 22368. (a) ~~A mobile photo radar enforcement system may be~~  
4 ~~utilized by a local authority for speed enforcement if the local~~  
5 ~~authority complies with all of the following requirements: The~~  
6 *City of Beverly Hills may, by ordinance, establish a pilot project*  
7 *utilizing a mobile photo radar speed enforcement (MPRSE)*  
8 *system for speed enforcement that does all of the following:*

9 (1) ~~Identifies the clearly the presence of the MPRSE system by~~  
10 ~~signs that clearly indicate the system's presence and are visible to~~  
11 ~~traffic entering the street on which the mobile MPRSE system is~~  
12 ~~utilized.~~

13 (2) ~~Identifies, with distinctive markings, the vehicle containing~~  
14 ~~the mobile photo radar MPRSE equipment.~~

15 (3) *Provides notice to drivers that a photographic record may*  
16 *have been taken when the driver passes the vehicle containing*  
17 *the MPRSE system.*

18 ~~(3)~~  
19 (4) ~~Utilizes the system for speed enforcement on streets at the~~  
20 ~~following locations in areas that meet the following criteria:~~

21 (A) ~~In a residence district, as defined in Section 515, with a~~  
22 ~~speed limit that is no greater than 30 25 miles per hour.~~

23 (B) ~~In a school zone, as defined in paragraph (2) of~~  
24 ~~subdivision (b) of Section 40802.~~

25 ~~(4)~~

1 (5) (A) Utilizes a ~~city or county employee~~ *peace officer or*  
2 *public officer* who is properly trained in the use of the ~~photo~~  
3 ~~radar equipment and photographic equipment, and radar, laser,~~  
4 ~~or other electronic devices; the enforcement of traffic and~~  
5 ~~speeding laws; and is present at the time of the issuance of the~~  
6 ~~citation~~ *alleged violation.*

7 (B) *For the purpose of this section, a public officer is a person*  
8 *who is trained in speed enforcement pursuant to subparagraph*  
9 *(C) and is authorized by local ordinance to enforce speeding*  
10 *laws through the operation of the MPRSE system.*

11 ~~(B)–~~  
12 (C) For the purposes of subparagraph (A), a ~~city or county~~  
13 ~~employee peace officer or public officer~~ is considered properly  
14 trained if he or she successfully completed ~~either a radar operator~~  
15 ~~course approved and certified by the Commission on Peace~~  
16 ~~Officer Standards and Training of not less than 24 hours on the~~  
17 ~~use of police traffic radar, or a radar operator course meeting~~  
18 ~~equivalent standards, both of the following:~~

19 (i) *Either a radar operator course approved and certified by*  
20 *the Commission on Peace Officer Standards and Training of not*  
21 *less than 24 hours on the use of police traffic radar, laser, or*  
22 *other electronic device, or an operator course meeting equivalent*  
23 *standards.*

24 (ii) *A minimum of 24 hours of speed enforcement training*  
25 *conducted by a local law enforcement agency.*

26 (b) ~~Prior to issuing citations under this section, a local~~  
27 ~~authority utilizing a mobile photo radar traffic enforcement~~  
28 ~~system shall commence a program to issue only warning notices~~  
29 ~~for 30 days. The local authority shall also make a public~~  
30 ~~announcement of the system at least 30 days following the~~  
31 ~~installation of the signs under paragraph (1) of subdivision (a);~~  
32 ~~prior to the commencement of the enforcement program.~~  
33 *enforcing speed and traffic laws under the pilot project, the City*  
34 *of Beverly Hills shall do both of the following:*

35 (1) *Make a public announcement of the system at least 30 days*  
36 *following the installation of the signs under paragraph (1) of*  
37 *subdivision (a).*

38 (2) *Issue only warning notices for the first 30 days of*  
39 *enforcement under the pilot project.*

1     (c) ~~Only a local authority, in cooperation with a~~ *The City of*  
2 *Beverly Hills with the oversight of the local law enforcement*  
3 *agency, may operate a photo radar enforcement system an*  
4 *MPRSE system pursuant to this section.* As used in this  
5 subdivision, “operate” includes all of the following activities:

6     (1) ~~(A) Developing~~ *Develops* uniform guidelines for the  
7 following:

8     ~~(i)–~~

9     (A) The selection of locations where the system will be  
10 utilized. *The guidelines for the selection shall include, but are*  
11 *not limited to, consideration of demonstrated community*  
12 *involvement and support, and demonstrated need for traffic*  
13 *calming devices.*

14     ~~(ii)–~~

15     (B) The screening and issuing of citations.

16     ~~(iii)–~~

17     (C) The processing and storage of confidential information.

18     ~~(iv)–~~

19     (D) The establishment of procedures to ensure compliance  
20 with the guidelines.

21     ~~(B) The guidelines for the selection of locations where the~~  
22 ~~system will be utilized as described under clause (i) of~~  
23 ~~subparagraph (A) shall include, but are not limited to,~~  
24 ~~consideration of the following factors:~~

25     ~~(i) Demonstrated community involvement and support.~~

26     ~~(ii) Demonstrated need for traffic calming devices.~~

27     (2) ~~Performing administrative functions~~ *Performs*  
28 *administrative* and day-to-day functions, including, but not  
29 limited to, all of the following:

30     ~~(A) Ensuring that the equipment is regularly inspected.~~

31     ~~(B) (i) Certifying~~

32     (A) *Certifies* that the equipment is properly installed and  
33 calibrated, and is operating properly, *which means that, at a*  
34 *minimum, the radar, laser, or other electronic device used to*  
35 *measure the speed of the accused meets or exceeds the minimal*  
36 *operational standards of the National Traffic Highway Safety*  
37 *Administration, and has been calibrated within the three years*  
38 *prior to the date of the alleged violation by an independent*  
39 *certified laser or radar repair and testing or calibration facility.*

40     (B) *Ensures* that the equipment is regularly inspected.

1     ~~(ii) As used in clause (i), “properly installed and calibrated,~~  
2     ~~and is operating properly” means that, at a minimum, the radar,~~  
3     ~~laser, or other electronic device used to measure the speed of the~~  
4     ~~accused meets or exceeds the minimal operational standards of~~  
5     ~~the National Traffic Highway Safety Administration, and has~~  
6     ~~been calibrated within the three years prior to the date of the~~  
7     ~~alleged violation by an independent certified laser or radar repair~~  
8     ~~and testing or calibration facility.~~

9     ~~(C) Regularly inspecting and maintaining~~ *inspects and*  
10    *maintains* warning signs placed pursuant to paragraph (1) of  
11    subdivision (a).

12    ~~(D) Maintaining~~ *Maintains* controls necessary to ensure that  
13    only those citations that have been reviewed and approved by  
14    law enforcement are delivered to violators.

15    (d) (1) Notwithstanding Section 6253 of the Government  
16    Code, or any other provision of law, photographic records made  
17    ~~by a mobile photo radar enforcement~~ *a MPRSE* system shall be  
18    confidential, and shall be made available only to governmental  
19    agencies and law enforcement agencies and only for the purposes  
20    of enforcing this article.

21    (2) Confidential information obtained from the Department of  
22    Motor Vehicles for the administration or enforcement of this  
23    article shall be held confidential and shall not be used for any  
24    other purpose.

25    (3) Except for court records described in Section 68152 of the  
26    Government Code, the confidential records and information  
27    described in paragraphs (1) and (2) may be retained for up to six  
28    months from the date the information was first obtained, or until  
29    final disposition of the citation, whichever date is later, after that  
30    time the information shall be destroyed in a manner that will  
31    preserve the confidentiality of a person included in the record or  
32    information.

33    (e) The registered owner or an individual identified by the  
34    registered owner as the driver of the vehicle at the time of the  
35    alleged violation shall be permitted to review the photographic  
36    evidence establishing the alleged violation.

37    (f) A contract between a local authority and a manufacturer or  
38    supplier of mobile photo radar enforcement equipment shall not  
39    include provision for the payment or compensation to the  
40    manufacturer or supplier based on the number of citations

1 generated, or as a percentage of the revenue generated, as a result  
2 of the use of the equipment authorized under this section.

3 (g) As used in this section, the term “mobile photo radar speed  
4 enforcement system” ~~means a system that is used or~~ “MPRSE  
5 system” means a mobile radar system operated by a peace  
6 officer or public officer that utilizes automated equipment to  
7 detect a violation of speeding laws and is designed to obtain a  
8 clear photograph of a vehicle’s license plate and the driver of the  
9 vehicle.

10 (h) *If the City of Beverly Hills establishes a MPRSE pilot*  
11 *project pursuant to this section, the city shall, on or before July*  
12 *1, 2009, submit to the Legislature a report prepared by an*  
13 *independent qualified contractor providing an evaluation of the*  
14 *MPRSE pilot project. The report shall provide data relative to*  
15 *the efficacy of the MPRSE system in reducing speeding and*  
16 *improving traffic safety in residential neighborhoods and school*  
17 *zones. The contractor shall make the report available to the*  
18 *public and request public comments from any interested parties*  
19 *prior to the final production of the report and submittal to the*  
20 *Legislature.*

21 ~~(h)~~  
22 (i) This section shall remain in effect only until January 1,  
23 2010, and as of that date is repealed, unless a later enacted  
24 statute, that is enacted before January 1, 2010, deletes or extends  
25 that date.

26 SEC. 2. *Section 40518 of the Vehicle Code is amended to*  
27 *read:*

28 40518. (a) Whenever a written notice to appear has been  
29 issued by a peace officer or by a qualified employee of a law  
30 enforcement agency on a form approved by the Judicial Council  
31 for an alleged violation of Section 22451, or, based on an alleged  
32 violation of Section 21453, 21455, or 22101 recorded by an  
33 automated enforcement system pursuant to Section 21455.5 or  
34 22451, *or, based on an alleged violation of Section 22352*  
35 *recorded by a mobile photo radar speed enforcement system*  
36 *pursuant to Section 22368*, and delivered by mail within 15 days  
37 of the alleged violation to the current address of the registered  
38 owner of the vehicle on file with the department, with a  
39 certificate of mailing obtained as evidence of service, an exact  
40 and legible duplicate copy of the notice when filed with the

1 magistrate shall constitute a complaint to which the defendant  
2 may enter a plea. Preparation and delivery of a notice to appear  
3 pursuant to this section is not an arrest.

4 (b) A notice to appear shall contain the name and address of  
5 the person, the license plate number of the person's vehicle, the  
6 violation charged, including a description of the offense, and the  
7 time and place when, and where, the person may appear in court  
8 or before a person authorized to receive a deposit of bail. The  
9 time specified shall be at least 10 days after the notice to appear  
10 is delivered.

11 (c) *This section shall remain in effect only until January 1,*  
12 *2011, and as of that date is repealed, unless a later enacted*  
13 *statute, that is enacted before January 1, 2011, deletes or extends*  
14 *that date.*

15 SEC. 3. Section 40518 is added to the Vehicle Code, to read:

16 40518. (a) *Whenever a written notice to appear has been*  
17 *issued by a peace officer or by a qualified employee of a law*  
18 *enforcement agency on a form approved by the Judicial Council*  
19 *for an alleged violation of Section 22451, or, based on an alleged*  
20 *violation of Section 21453, 21455, or 22101 recorded by an*  
21 *automated enforcement system pursuant to Section 21455.5 or*  
22 *22451, and delivered by mail within 15 days of the alleged*  
23 *violation to the current address of the registered owner of the*  
24 *vehicle on file with the department, with a certificate of mailing*  
25 *obtained as evidence of service, an exact and legible duplicate*  
26 *copy of the notice when filed with the magistrate shall constitute*  
27 *a complaint to which the defendant may enter a plea.*  
28 *Preparation and delivery of a notice to appear pursuant to this*  
29 *section is not an arrest.*

30 (b) *A notice to appear shall contain the name and address of*  
31 *the person, the license plate number of the person's vehicle, the*  
32 *violation charged, including a description of the offense, and the*  
33 *time and place when, and where, the person may appear in court*  
34 *or before a person authorized to receive a deposit of bail. The*  
35 *time specified shall be at least 10 days after the notice to appear*  
36 *is delivered.*

37 (c) *This section shall become operative on January 1, 2011.*